

**IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO**

CHRISTINA L. MARCUS, Special
Administrator of the Estate of ERIC P.
MARCUS
c/o Santen & Hughes
600 Vine St., Suite 2700
Cincinnati, Ohio 45202

Plaintiff,

v.

JOHN DOE CORRECTIONS OFFICER #1
Individually and in his/her official capacity
c/o Hamilton County Sheriff's Office
1000 Sycamore Street
Cincinnati, Ohio 45202

and

JOHN DOE CORRECTIONS OFFICER #2
Individually and in his/her official capacity
c/o Hamilton County Sheriff's Office
1000 Sycamore Street
Cincinnati, Ohio 45202

and

JOHN DOE CORRECTIONS OFFICER #3
Individually and in his/her official capacity
c/o Hamilton County Sheriff's Office
1000 Sycamore Street
Cincinnati, Ohio 45202

and

JOHN DOE CORRECTIONS OFFICER #4
Individually and in his/her official capacity
c/o Hamilton County Sheriff's Office
1000 Sycamore Street
Cincinnati, Ohio 45202

and

Case No.:

Judge:

**COMPLAINT
(Jury Demand Endorsed Hereon)**

JOHN DOE CORRECTIONS OFFICER #5 :
Individually and in his/her official capacity :
c/o Hamilton County Sheriff's Office :
1000 Sycamore Street :
Cincinnati, Ohio 45202 :

and :

HAMILTON COUNTY SHERIFF'S :
OFFICE :
By and through Sheriff Charmaine McGuffey :
in her official capacity :
1000 Sycamore Street :
Cincinnati, Ohio 45202 :

and :

THE HAMILTON COUNTY BOARD OF :
COMMISSIONERS by and through ALICIA :
REECE, DENISE DRIEHAUS, and :
STEPHANIE SUMMEROW DUMAS in :
their official capacities as Hamilton County :
Commissioners :
138 E. Court Street #603 :
Cincinnati, Ohio 45202 :

Defendants.

I. JURISDICTION

1. This Court has Jurisdiction over the Defendants because, among other things, all Defendants do, and all times relevant did, conduct business in the State of Ohio, purposefully avail themselves of the laws of the state of Ohio, and / or commit tortious acts within the state of Ohio.

2. Venue is proper in Hamilton County under Ohio Civil Rule 3(C)(3) because the events giving rise to this cause of action occurred in this county.

II. PARTIES

1. Plaintiff Christina L. Marcus was appointed Special Administrator of the estate of

Eric P. Marcus on July 28, 2023 by the Probate Division of the Hamilton County Court of Common Pleas under case no. 2023003334.

2. Defendants John Doe Corrections Officers Nos. 1-5 (hereafter, “Officers”) were during all relevant times corrections officers with the Hamilton County Sheriff’s Office acting under color of law. They are being sued individually and in their official capacities as employees of the Hamilton County Sheriff’s Office and the Hamilton County Board of Commissioners.

3. Defendant Hamilton County Sheriff’s Office, by and through Sheriff Charmaine McGuffey is a government body, organized under the laws of Hamilton County, Ohio. Defendant Hamilton County Sheriff’s Office operates the Hamilton County Justice Center.

4. Defendant Hamilton County Board of Commissioners, by and through its Commissioners Alicia Reece, Denise Driehaus, and Stephanie Summerow Dumas is an Ohio political subdivision. Hamilton County Sheriff’s Office and Hamilton County Justice Center are agencies of Defendant Hamilton County Board of Commissioners. Defendant Hamilton County Board of Commissioners is a “person” under [42 U.S.C. § 1983](#). Defendant Hamilton County is responsible for the policies, customs, and practices which gave rise to Plaintiff’s claims.

III. FACTS

5. Eric Marcus (hereafter, “Marcus”) was arrested on August 19, 2021 at 8:42 PM by Cincinnati Police Department Officers Orion Covrett and Timothy Wahoff on charges of obstructing official business, possession of drugs, and possessing drug abuse instruments.

6. His arrest report noted that “Defendant was in possession of a syringe loaded with fentanyl found on his person during a search incident to arrest. The officer who searched the defendant was punctured in the finger by the needle. Both the officer and defendant were taken to

UCMC for treatment.”

7. Any drugs in Marcus’s possession would have been removed from his person as evidence during his arrest.

8. Marcus was transported to the Hamilton County Justice Center following his arrest where he was incarcerated.

9. Marcus remained incarcerated at the Hamilton County Justice Center for the next two days.

10. On August 22, 2021, Marcus was found dead.

11. Marcus’s death record from the Hamilton County Coroner’s Office states that he was found dead at “South Bldg 2nd Floor Pod C, Hamilton County Justice Center.

12. Marcus was pronounced dead at 5:53 PM.

13. Marcus was thirty-four years old at the time of his death. He left behind a wife and three minor children.

14. The Hamilton County Coroner’s Office conducted an autopsy. The Hamilton County Coroner’s Death Record identified Marcus’s cause of death was “acute fentanyl poisoning.” His manner of death was ruled an “accident.”

15. Importantly, the Death Record states that the “Approximate Interval Between Onset and Death” was “minutes.”

16. Marcus died due to toxic exposure to fentanyl at the Hamilton County Justice Center.

17. Deaths due to drug overdose are occurring unchecked at Hamilton County Justice Center:

a. James Barton died of a drug overdose while incarcerated at the Justice Center on

April 13, 2013. (<https://www.fox19.com/story/22708022/findings-released-on-fatal-overdose-of-hamilton-co-inmate/>)

b. Daniel Davis died of a drug overdose while incarcerated at the Justice Center on September 24, 2014. (<https://www.wlwt.com/article/coroner-daniel-davis-overdosed-on-heroin-in-hamilton-co-jail/3549606#>)

c. Satwinder Singh died of a drug overdose while incarcerated at the Justice Center on March 26, 2019. (<https://www.cincinnati.com/story/news/crime/crime-and-courts/2019/11/04/hamilton-county-jail-overdose-death-ex-inmate-charged/4156558002/>)

18. Instances of deaths due to drug-overdose are not surprising given the Justice Center's significant overcrowding.

19. In 2019, Major Chris Kettermann, who oversees the Hamilton County Justice Center, was quoted as saying that the Justice Center was built to house 875 inmates. However, by 2019, it was housing approximately 1,600 inmates per day. (<https://www.cincinnati.com/story/news/2018/08/16/hamilton-county-jail-gets-renovation-adds-92-beds-addicted-inmates/958390002/>)

IV. FIRST CAUSE OF ACTION - 42 U.S.C. § 1983 ***(State Created Danger)***

20. Plaintiff incorporates and re-alleges each and every prior and succeeding allegation of this Complaint as if rewritten here fully.

21. Officers under color of state law, deprived Marcus of rights, privileges and immunities secured by the Fourth, Eighth, and Fourteenth Amendments to the U.S. Constitution, including but not limited to the right to be free from state created dangers, heedless disregard, cruel conditions of confinement, and violations of substantive due process.

22. The actions of Officers placed Marcus in a dangerous environment from which he was exposed to fentanyl in a lethal dose. This danger was unique to the circumstances of Marcus's incarceration.

23. Marcus's death was proximately caused by the deliberately indifferent, willful, and wanton actions of Officers through their failure to prevent Marcus from being exposed to fentanyl while incarcerated.

24. Defendants Hamilton County Sheriff's Office and Hamilton County Board of Commissioners are vicariously liable for the actions of their Officers to the extent that the same were carried out in the course of their duties.

V. SECOND CAUSE OF ACTION - 42 U.S.C. § 1983
(Denial of Medical Care)

25. Plaintiff incorporates and re-alleges each and every prior and succeeding allegation of this Complaint as if rewritten here fully.

26. Defendants have at their disposal medications which can rapidly reverse the effects of an opioid overdose.

27. Defendants failed to utilize such medications in a timely fashion.

28. As a result of Defendants' failure to respond to Marcus's immediate medical need, Marcus overdosed and died.

VI. THIRD CAUSE OF ACTION - 42 U.S.C. § 1983
(Monell Claim)

29. Plaintiff incorporates and re-alleges each and every prior and succeeding allegation of this Complaint as if rewritten here fully.

30. During all times relevant to this action, the Hamilton County Board of Commissioners and Hamilton County Sheriff's Office enacted and pursued policies and

procedures which related to the training, supervision, and retention of Defendant Officers. These policies and procedures were enacted and pursued with full knowledge that the Constitutional violations plead herein were a foreseeable result. The Hamilton County Board of Commissioners and Hamilton County Sheriff's Office further ratified the actions and omissions of Defendant Officers. Defendants Hamilton County Board of Commissioners and Hamilton County Sheriff's Office acted with deliberate indifference, with wanton and willful disregard, recklessly, and intentionally.

31. Notably, Defendants Hamilton County Board of Commissioners and Hamilton County Sheriff's Office enacted policies, among others, that permitted the Hamilton County Justice Center to become grossly overcrowded, resulting in the denial of necessary services, including supervision and medical care, to Marcus and other inmates.

32. The policies and procedures of the Hamilton County Board of Commissioners and Hamilton County Sheriff's Office were the proximate cause of the deprivation of Marcus's Constitutional rights.

33. Defendants Hamilton County Sheriff's Office and Hamilton County Board of Commissioners are vicariously liable for the actions of their Officers to the extent that the same were carried out in the course of their duties.

VII. FOURTH CAUSE OF ACTION – STATE LAW WRONGFUL DEATH

34. Plaintiff incorporates and re-alleges each and every prior and succeeding allegation of this Complaint as if rewritten here fully.

35. The incident causing the death of Marcus was proximately caused by the willful and wanton actions of Defendants, resulting in damages recoverable under R.C. § 2125.02.

36. Marcus is survived by his wife, minor children, and other next of kin, who are beneficiaries of this action.

37. Marcus's beneficiaries have suffered the following damages as a result of his death: loss of support from the reasonably expected earning capacity of the decedent, loss of services, loss of society, including loss of companionship, consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, and education, loss of prospective inheritance to the decedent's heirs at law at the time of his death, mental anguish, and funeral and burial expenses.

38. Defendants Hamilton County Sheriff's Office and Hamilton County Board of Commissioners are vicariously liable for the actions of their Officers to the extent that the same were carried out in the course of their duties.

VIII. PRAYER FOR RELIEF

Wherefore, Plaintiff Christina L. Marcus, Executor of the Estate of Eric P. Marcus, prays that the Court grant the following relief:

1. Compensatory damages in excess of \$25,000.00 arising from Defendants' actions and the denial of Plaintiff's rights, including without limitation pain, suffering, and other losses;
2. Punitive damages as may be authorized by law;
3. For an award of his reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988 and other law;
4. For an award of the taxable costs of court; and
5. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ J. Robert Linneman

J. Robert Linneman (0073846)

H. Louis Sirkin (0024573)

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Attorney for Plaintiff

*Christina L Marcus, Executor of the Estate
Of Eric P. Marcus*

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues triable by a jury.

/s/ J. Robert Linneman

J. Robert Linneman

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